

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 15TH JUNE 2007 / 25TH JYASHTA 1929

WP(C).No. 27042 of 2004(T)

PETITIONER:

P.V.SIVADASAN @ SIVADASAKURUP,
AGED 57 YEARS, S/O.PODUVAL BHARGAVI AMMA,
KALLADIKKOD AMSOM DESOM, MANNARKKAD TALUK,
PALAKKAD.

BY ADV. SRI.U.MUHAMMED MUSTHAFA
SRI.K.ABDUL JAWAD

RESPONDENTS:

1. SETHU MADHAVAN, S/O.BHARGAVI AMMA,
VELULLIKKALAM, KALLADIKKODE, MANNARKKAD TALUK,
PALAKKAD.
2. VENUGOPALAN, SUB DIVISION OFFICER,
TELEPHONE EXCHANGE, VELULLIKKALAM, KALLADIKODU,
MANNARKKADU TALUK, PALAKKAD.

BY ADV. SRI.K.M.SATHYANATHA MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC NO. 27042/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE WRITTEN STATEMENT IN O.S. NO.52/2002 FILED BY THE PETITIONER.

EXT.P2: COPY OF THE AMENDMENT PETITION FILED BY THE PETITIONER IN OS 52/2002.

EXT.P3: COPY OF THE ORDER DATED 26.7.2004 IN I.A. NO.196/2004 IN O.S. NO.52/2002

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 27042 of 2004

Dated this the 15th day of June 2007

JUDGMENT

Under challenge is an order dismissing application for amendment of written statement on the reason that the proposed amendment will enable the petitioner defendant to get away from the effect of fatal admissions already made.

2. Heard both sides. The learned counsel for the petitioner would make fervent submissions and placed reliance on the judgment of this court in **Kunhailumma v. Rabiumma (1997 (2) KLT 936)** to contend that title to immovable property will not be acquired by anybody merely on the admissions of the defendant. The admissions are always capable of being withdrawn before they are acted upon submitted counsel.

2. Though I do not agree that the facts which obtained in the Kunhailumma's case (supra) are similar to those which obtain in the present case, I am of the view that the learned

Munsiff could have allowed the application to the extent of permitting the petitioner to incorporate additional pleadings without deleting the existing pleadings.

3. Under these circumstances, even as I do not interfere with Ext.P3, I permit the petitioner to file an additional written statement incorporating additional pleadings which is sought to be incorporated through I.A. 196/2004. If additional written statement as directed above is filed by the petitioner within three weeks of receiving a copy of this judgment, the same will be received by the court below. It is made clear that only those contentions which are sought to be incorporated by the petitioner through the I.A will be raised in the additional written statement and no further contentions will be raised through the additional written statement.

With the above directions, the writ petition is disposed of.

**PIUS C. KURIAKOSE,
JUDGE.**

dpk

Dpk